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State of New Hampshire
OFFICE OF ATTORNEY-GENERAL

1956

May 25

NEW HAMPSHIRE LAWYERS

SEP 22 1998

CONCORD, N.H.

Dr. Austin J. McCaffrey
Commissioner of Education
Department of Education
State House Annex
Concord, New Hampshire

Dear Sir:

You have requested my opinion concerning long-term borrowing for school purposes in the City of Manchester. More specifically you have asked the following three questions:

- "1. What limitations are placed upon the city of Manchester with respect to long-term borrowing for school purposes?
- "2. Is the city of Manchester eligible for an emergency extension of its debt limit, providing approval is granted by the committee of investigation established by the Municipal Finance Act?
- "3. What provisions of the Municipal Finance Act now apply to the city of Manchester?"

The provisions of chapter 430, Laws of 1955, place a limitation on the City of Manchester to incur indebtedness for all municipal purposes, including school purposes, to an amount not to exceed eight per cent of its last assessed valuation of its taxable property. This is despite the provisions of RSA 33 which establishes a different debt limit for all of the municipalities including cities, towns, school districts and village districts. The said chapter 430 also provides that the City of Manchester may incur indebtedness for school purposes to an amount not exceeding three per cent of its last assessed valuation. As a result of this statute the answer to your first question is that the limitation of three per cent of its last assessed valuation is placed upon the City of Manchester with respect to long-term borrowing for school purposes. See also Laws 1955, chapter 329, section 4.

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Dr. Austin J. McCaffrey

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The City of Manchester is not eligible for an emergency extension of its debt limit by application to the Committee of Investigation established by the Municipal Finance Act. My opinion on this question is based upon the fact that the Municipal Finance Act specifically provides for an emergency extension of the debt limit, while chapter 430 has no provision for an emergency extension. The provisions of chapter 430 place an absolute limit on all borrowing for municipal purposes of eight per cent and an absolute limit for school purposes of three per cent.

As is provided in section 2 of chapter 430 of the Laws of 1955, except as modified in section 1 of said chapter 430, all other provisions of the Municipal Finance Act apply to indebtedness incurred by the City of Manchester. It is my opinion that the modification referred to effectively limits the application of that section of the Municipal Finance Act which provides for exceeding debt limits.

While it is not within the province of this office to advise the City of Manchester as to its legal problems may I submit to you for your information that it is my opinion that under this statute (chapter 430, Laws 1955), the City may incur indebtedness to an amount not to exceed eight per cent of its last assessed valuation for municipal purposes other than school purposes. This means that if the municipalities debt limit was six per cent for municipal purposes the City would be limited to an additional two per cent for school purposes. The statute provides a limit of eight per cent on all purposes and no more than three per cent of the eight per cent may be used for school purposes. It should also be noted that the base for figuring the amount that may be borrowed is different than the base used under the Municipal Finance Act.

Very truly yours,

Arthur E. Bean, Jr.
Assistant Attorney General

AEB,Jr/T